

ZONING MAP ORDINANCE NO. Z-Loch

AN ORDINANCE amending the City of
Fort Wayne Zoning Map No. M-18.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is
hereby designated a P.O.D. (Professional Office District)
under the terms of Chapter 33 of the Code of the City of
Fort Wayne, Indiana of 1974:

A part of Lot 9 Centlivre Park, Plat Two, an Addition
to the City of Fort Wayne, Indiana, more particularly
described as follows:

Commencing at the southeast corner of Lot 9 in
Centlivre Park, Plat Two, as recorded in Plat Book 8,
page 63 in the Allen County Recorder's Office; thence
Westerly along the south line of said Lot 9 a distance
of 12.68 feet to an iron pin on the West right of way
line of North Clinton Street as now established; thence
Northeasterly along said right of way line on a curve
to the left having a radius of 5689.58 feet, an arc
length of 137.82 feet to the point of beginning, said
arc being subtended by a chord of 137.82 feet and
deflecting 92 deg. 00 min. from the last described
line; thence from said point of beginning deflecting
left from said chord 24 deg. 44 min. 20 sec., along
said right of way line, 41.98 feet to a point on the
south right of way line of Grove Street, said point
being 30.37 feet northwesterly of the northeast corner
of said Lot 9; thence by a deflection left of 35 deg.
40 min. along the south right of way line of Grove
Street as now established, a distance of 81.63 feet to
an iron pin located 146.0 feet southeasterly from the
northwest corner of said Lot 9; thence by a deflection
left of 92 deg. 34 min. 12 sec. a distance of 58.78
feet to an iron pin; thence by a deflection left of 15
deg. 55 min. 08 sec. a distance of 30.89 feet to a
point located 141.36 feet northeasterly of the
northeast corner of Lot 8 in Centlivre Park, Plat One;
thence by a deflection left of 103 deg. 06 min. 20 sec.
a distance of 121.28 feet to the point of beginning,
containing 6189 square feet and subject to easements of
record.

TOGETHER WITH:

A part of Lot 9 in Centlivre Park, Plat Two, an
Addition to the City of Fort Wayne, Indiana, more
particularly described as follows:

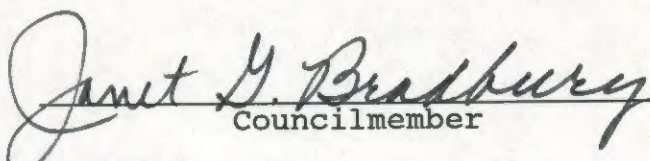
Commencing at the southwest corner of Lot 9 in
Centlivre Park, Plat Two, as recorded in Plat Book 8,
page 63 in the Allen County Recorder's Office; thence

#398

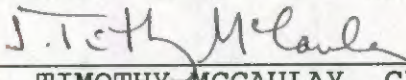
Westerly along the south line of said Lot 9 a distance of 12.68 feet to an iron pin on the West right of way line of North Clinton Streets as now established, said point being the point of beginning. BEGINNING at the above described point; thence Northeasterly along said right of way line on a curve to the left having a radius of 5689.58 feet, to an arc length of 137.82 feet, being subtended by a chord length of 137.82 feet, said chord deflects 92 deg. 00 min. right from the last described line; thence by a deflection left of 92 deg. 00 min. a distance of 121.28 feet; thence by a deflection left of 76 deg. 53 min. 40 sec. a distance of 141.36 feet to an iron pin at the northeast corner of Lot 8 in Centlivre Park, Plat One, said point being located 161.10 feet West of the southeast corner of said Lot 9; thence by a deflection left of 103 deg. 06 min. 20 sec. along the south line of said Lot 9 a distance of 148.42 feet to the point of beginning, containing 0.427 acres and subject to easements of record,

and the symbols of the City of Fort Wayne Zoning Map No. M-18, as established by Section 11 of Chapter 33 of the Code of the City of Fort Wayne, Indiana are hereby changed accordingly.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.


Councilmember

APPROVED AS TO FORM AND LEGALITY:


J. TIMOTHY MCCAULAY, CITY ATTORNEY

COURT STAR RECORD
SOUTH NORTH ST. USA

Read the first time in full and on motion by Bradbury, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on Regulation (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: 7-11-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Long, seconded by Talarico, and duly adopted, placed on its passage. ~~PASSED~~ LOST by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES		<u>8</u>		<u>1</u>
BRADBURY				<u>✓</u>
BURNS		<u>✓</u>		
EDMONDS		<u>✓</u>		
GiaQUINTA		<u>✓</u>		
HENRY		<u>✓</u>		
LONG		<u>✓</u>		
REDD		<u>✓</u>		
SCHMIDT		<u>✓</u>		
TALARICO		<u>✓</u>		

DATED: 8-22-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. _____ on the _____ day of _____, 19____,

ATTEST

SEAL

Sandra E. Kennedy, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 19____, at the hour of _____ o'clock _____ M., E.S.T.

Sandra E. Kennedy, CITY CLERK

Approved and signed by me this _____ day of _____, 19____, at the hour of _____ o'clock _____ M., E.S.T.

Paul Helmke, MAYOR

RECEIPT

No 7226

COMMUNITY DEVELOPMENT & PLANNING

FT. WAYNE, IND., 6-1 1989

RECEIVED FROM Kemico Leasing \$ 300.00

THE SUM OF three hundred 00/100 ¹⁰⁰ DOLLARS

ON ACCOUNT OF rezoneing + primary develop

#8343 2727 N. Clinton Plon

PAID BY: CASH ☐ CHECK ☒ M.O. ☐

AUTHORIZED SIGNATURE

RECEIPT NO. _____

DATE FILED _____

INTENDED USE _____

THIS IS TO BE FILED IN DUPLICATE

I/We Richard J. Hoffman

(Applicant's Name or Names)

do hereby petition your Honorable Body to amend the Zoning Map of Fort Wayne Indiana, by reclassifying from a/an R2 District to a/an P.O.D. District the property described as follows: (Professional Office District)

See Exhibit "A" attached

hereto containing legal

description of the property

(Legal Description) If additional space is needed, use reverse side.

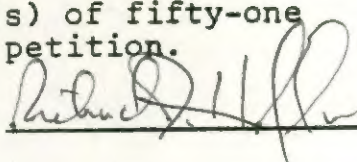
ADDRESS OF PROPERTY IS TO BE INCLUDED: 2727 N. Clinton, Fort Wayne, Indiana 46806

(General Description for Planning Staff Use Only)

I/We, the undersigned, certify that I am/We are the owner(s) of fifty-one percentum (51%) or more of the property described in this petition.

Richard J. Hoffman

2727 N. Clinton, Fort Wayne, In
46806



(Name)

(Address)

(Signature)

(If additional space is needed, use reverse side.)

Legal Description checked by _____

(OFFICE USE ONLY)

NOTE FOLLOWING RULES

All requests for deferrals, continuances, withdrawals, or request that the ordinance be taken under advisement shall be filed in writing and be submitted to the City Plan Commission prior to the legal notice pertaining to the ordinance being sent to the newspaper for legal publication. If the request for deferral, continuance or request that ordinances be taken under advisement is received prior to the publication of the legal ad being published the head of the Plan Commission staff shall not put the matter on the agenda for the meeting at which it was to be considered. The Plan Commission staff will not accept request from petitioners for deferrals, continuances, withdrawals, or requests that an ordinance be taken under advisement, after the legal notice of said ordinance is forwarded to the newspaper for legal publication but shall schedule the matter for hearing before the City Plan Commission. (FILING FEE \$100.00)

Name and address of the preparer, attorney or agent.

Gary M. Cappelli
(Name)

2008 Fort Wayne National Bank Bldg
(Address & Zip Code)
Fort Wayne, IN 46802

219-420-1425
(Telephone Number)

COMMUNITY DEVELOPMENT AND PLANNING / Division of Long Range Planning & Zoning and (CITY PLAN COMMISSION) / Room #830, City-County Building, One Main Street Fort Wayne, IN 46802 (PHONE: 219/427-1140).

Applicants, Property owners and preparer shall be notified of the Public Hearing approximately ten (10) days prior to the meeting.

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all of which is more commonly known as 2727 N. Clinton, Fort

Public Hearing on a Zoning Map Amendment and a Primary Development Plan

- a. Bill No. Z-89-07-06 - Change of Zone #398
From R-2 to POD
2727 No Clinton St

- b. Hoffman POD Development Plan

David Wright, Commission attorney, disqualified himself from participation in the amendment and primary development plan discussion stating a conflict of interest.

Gary Cappelli, attorney for the petitioner, appeared before the Commission. Mr. Cappelli stated that in May of 1988 they had tried to rezone the property to an R3 and then obtain a variance for an office use. Mr. Cappelli stated that several years ago Mr. Hoffman purchased the property and constructed a dwelling on the property. He stated that the dwelling was primarily for residential purposes and also for the purpose of conducting, what was then a home business. He stated that Mr. Hoffman leases business equipment. He stated that as Mr. Hoffman's business grew he continued to expand the business continuing to live in the property. He stated that Mr. Hoffman has never had a sign on his property advertising his business. He stated that about 2 years ago Mr. Hoffman moved from the property and relocated his residence so he could accommodate his expanding office use on the property in question. He stated that it is a business in which no outside customers come to the site. He stated that the only people on the site are employees of Mr. Hoffman's. He stated that at any given time he may have 6 or 7 vehicles at the site and they are accommodated in the expanded driveway he built for this property. Mr. Hoffman not realizing that he was operating in violation of the Zoning laws at one time actually removed the kitchen facilities from the property to accommodate his expanded office use. He stated that in May of 1988 the Board of Zoning Appeals rejected their request for an office use and the Plan Commission also denied the R-3 zoning request. Mr. Cappelli stated this is their last resort. He stated they are asking the Plan Commission to look at this particular situation. He stated they are back to the Plan Commission and requesting that they take a last look and see whether or not rezoning this property to a Planned Office District would really be detrimental to this area. Mr. Cappelli stated that the Plan Commission has determined in a number of cases that an appropriate buffer between a residential area and a growing commercial area is the Professional Office District. He stated he was specifically reading from the purpose enunciated in the Zoning Ordinance as the purpose of the Professional Office District. Since these structures are typically much less commercial in appearance and architecturally more harmonious with residential structures, he felt that there could be no case more compatible with the definition of the POD in the zoning ordinance. He stated that he was referring to the property immediately to the north and across

Grove Street the old Calvary Temple. He stated that in 1985 the owners of the Calvary Temple rezoned the property to R-3 and that was granted. He stated they then went to the Board of Zoning Appeals and requested a contingent use for a television studio and offices for Calvary Temple Ministries this was granted. He stated that the staff has suggested the rezoning be denied because it constitutes spot zoning. He stated that he felt under no circumstance could one conclude that this would be spot zoning when this use is the identical use to the immediately joined property to the north. He stated that in 1984 the Plan Commission granted an expansion of a B-1-B zoning for Tom Steele Tire Company which is in the same block as Mr. Hoffman's property but on the other side of the street. Mr. Cappelli stated that these expansions have not seemed to impugn the integrity of the remaining residential area lying to the south of this particular property. He stated that he did not see how the continuation of Mr. Hoffman's business could be detrimental to the surrounding community.

Mr. Cappelli stated that staff has suggested that the development plan that was submitted is deficient in terms of material and information requested. He stated that is not so. He stated that he felt that they had met all of the requirements for submitting a primary development plan according to the ordinance under which the POD classification exists. He stated they have not filed for secondary development plan approval which would have been customary with an existing structure. He stated that it would have cost another \$100 to do so and they were not so sure that it would have been money well spent. He stated that most of the government agencies have approved the plan that was submitted with little comment. He stated that Traffic Engineering stated that it was approved but would not allow any access to Clinton Street now or in the future. He stated that they fully concur with that request.

The following people spoke in opposition:

Chris Brown, 2334 Eastbrook Drive, President of Brookview Civic Association appeared before the Commission. Mr. Brown presented the Commission with a petition in opposition to the rezoning.

Jim Houlihan, 2713 No Clinton St
Earl Burris, 2720 No Clinton St
Bill Hinga, 2740 Eastbrook Dr
Scott Simmons, 2732 Eastbrook Dr
Tom Burlage, 2420 Oakridge Rd

- residents feel this rezoning would set a dangerous precedent in the area;
- commercial properties to the north of this area are buffered by Grove Street;
- it was stated that this had already been denied once by City Planning when petitioner requested an R-3 district and for a variance by the Board of Zoning Appeals - residents do not see

that this request would merit approval;

- residents do not feel that there is any hardship on the petitioner because it is a self imposed hardship;
- the development plan could not meet the minimum side yard requirements of a POD;
- area has significant historical value and commercial encroachment would diminish the integrity of this historical significance;

Mel Smith questioned why they did not speak out against the other rezonings in the area - Tom Steele Tire, Calvary Temple, car wash.

Mr. Brown stated that those rezonings were in areas that were already commercially developed and the properties are north of Grove Street or on the other side of Clinton Street which acts as a buffer to the residential areas. He stated that is one of their concerns, that the commercial development be stopped before it crosses Grove of Clinton.

In rebuttal, Mr. Cappelli stated that they do not intend to take this request any further. He stated if the Plan Commission rejects this request that will be the end. He stated that they find themselves in a very tenuous position. He stated that certain residents bought their properties in the face of the fact that this use was there. He stated this was done either because they did not recognize that the building was being used for office purposes or because the business was not objectional to them at the time of the purchase. He stated that either it is a fairly good testimonial to the way the property is used and low impact it would have if that use were allowed to continue. He stated that with regard to the required setbacks for a POD he had a letter from planning staff stating that they should withdraw their request for the Board of Zoning Appeals for lot line waivers, because the Plan Commission had the right to grant the lot line modifications.

There was no one else present who wished to speak in favor of or in opposition to the proposed rezoning.

FACT SHEET

Z-89-07-06

BILL NUMBER

**Division of Community
Development & Planning****BRIEF TITLE**

Zoning Ordinance Amendment
From R-2 to P.O.D.

APPROVAL DEADLINE**REASON****DETAILS****Specific Location and/or Address**

2727 No Clinton St

Reason for Project

Professional Offices

Discussion (Including relationship to other Council actions)17 July 1989 - Public Hearing

See Attached Minutes of Meeting

24 July 1989 - Business Meeting

Motion was made and seconded to return
the ordinance to the Common Council with
a DO NOT PASS recommendation.

Of the six (6) members present, five (5)
voted in favor of the motion, one (1) did
not vote.

Motion carried.

POSITIONS**RECOMMENDATIONS****Sponsor**

City Plan Commission

Area Affected

City Wide

Other Areas

**Applicants/
Proponents****Applicant(s)**

Richard Hoffman
City Department

Other

Opponents**Groups or Individuals**

Brookview Civic Association

Basis of Opposition**Staff
Recommendation**☐ For☒ Against

Reason Against

**Board or
Commission
Recommendation****By**☐ For☒ Against☐ No Action Taken

☐ For with revisions to conditions
(See Details column for conditions)

**CITY COUNCIL
ACTIONS
(For Council
use only)**☐ Pass☐ Other☐ Pass (as
amended)☐ Hold☐ Council Sub.☐ Do not pass

#398

ORIGINAL

ORIGINAL

DIGEST SHEET

TITLE OF ORDINANCE Zoning Ordinance Amendment 2-85-07-06

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE 2727 No Clinton St

EFFECT OF PASSAGE Property is presently zoned R-2 - Two Family Residential.

Property will become P.O.D. - Professional Office District.

EFFECT OF NON-PASSAGE Property will remain zoned R-2 - Two Family Residential

MONEY INVOLVED (Direct Costs, Expenditures, Savings)

(ASSIGN TO COMMITTEE (J.N.))

BILL NO. Z-89-07-06

REPORT OF THE COMMITTEE ON REGULATIONS

JANET G. BRADBURY, CHAIRPERSON
DAVID C. LONG, VICE CHAIRMAN
EDMONDS, SCHMIDT, TALARICO

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS
REFERRED AN (ORDINANCE) ~~(RESOLUTION)~~ amending the City of
Fort Wayne, Zoning Map No. M-18

HAVE HAD SAID (ORDINANCE) ~~(RESOLUTION)~~ UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) ~~(RESOLUTION)~~

DO PASS

DO NOT PASS

ABSTAIN

NO REC

<u>Janet G. Bradbury</u>	<u>David C. Long</u>	<u>Edmonds</u>	<u>Schmidt</u>	<u>Talarico</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

DATED: 8-22-85.

Sandra E. Kennedy
City Clerk

